

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

12 SEP 20 PM 3: 09

CLERK-LAS CRUCES

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUSTAVO ALCANTAR-AVITIA,
MIGUEL REYES,
a/k/a Miguel Reyes Carrera,
VICTOR LUCERO,
a/k/a Daniel Edward Lucero,
LAZARO MENDOZA-DOMINGUEZ,
a/k/a Marcos R. Hurtado,
DAVID GARCIA, JR., and
ALBERTO LOYA-NEVAREZ,
a/k/a "Betito,"
a/k/a "Beto,"

Defendants.

CRIMINAL NO. 12-2334

Count 1: 21 U.S.C. § 846: Conspiracy;

Counts 2-15, 18-24, 26: 21 U.S.C. § 843(b):
Use of a Communication Facility to Further
the Commission of a Drug Trafficking Crime;
18 U.S.C. § 2;

Count 16-17: 18 U.S.C. § 1956(a)(1)(B)(i):
Laundering of Monetary Instruments;
18 U.S.C. § 2;

Count 25: 31 U.S.C. § 5332(a)(1) and (b):
Bulk Cash Smuggling Into or Out of
the United States; 18 U.S.C. § 2; and

Count 27: 8 U.S.C. §§ 1326(a) and (b): Re-
entry of a Removed Alien.

INDICTMENT

The Grand Jury charges:

Count 1

Beginning on or about May 8, 2012, and continuing to up to and including September 20, 2012, in Bernalillo County, in the District of New Mexico and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA, MIGUEL REYES, a/k/a Miguel Reyes Carrera, VICTOR LUCERO, a/k/a Daniel Edward Lucero, LAZARO MENDOZA-DOMINGUEZ, a/k/a Marcos R. Hurtado, DAVID GARCIA, JR., and ALBERTO LOYA-NEVAREZ, a/k/a "Betito," a/k/a "Beto,"** and unlawfully, knowingly and intentionally did combine, conspire, confederate and agree

with each other and with other persons whose names are known and unknown to the Grand Jury to commit the following offenses against the United States, specifically: possession with intent to distribute controlled substances, 100 kilograms and more of a mixture and substance containing a detectable amount of marijuana, contrary to 21 U.S.C. §§ 841(a)(1) and (b)(1)(B), and a mixture and substance containing a detectable amount of cocaine, contrary to 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

Overt Acts

In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, the following acts, among others, were committed:

Overt Act One

On April 9, 2012, David Garcia, Jr. counseled Gustavo Alcantar-Avitia to always handle the delivery of drug proceeds to Mexico personally because if money is missing it will bring big trouble.

Overt Act Two

Between May 8, 2012, and May 16, 2012, Gustavo Alcantar-Avitia and Miguel Reyes worked together to transport \$60,000 in bulk cash drug proceeds from Minnesota to Ivan LNU in Mexico.

Overt Act Three

On May 16, 2012, Gustavo Alcantar-Avitia and David Garcia, Jr. talked about brokering the sale of cocaine to obtain a quick profit.

Overt Act Four

On May 10, 2012, Leo LNU asked Gustavo Alcantar-Avitia to broker the shipment of 300 pounds of marijuana to Tennessee, and Gustavo Alcantar-Avitia agreed to a sale price of \$625 per pound.

Overt Act Five

On May 10, 2012, Gustavo Alcantar-Avitia asked Miguel Reyes if he had a drug courier to transport the marijuana to Tennessee, and Miguel Reyes said that he did but that he would have a second drug courier transport the "paper" (bulk cash drug proceeds) back to New Mexico.

Overt Act Six

On May 10, 2012, Gustavo Alcantar-Avitia asked David Garcia, Jr. what the going rate for bulk-quantity marijuana was in Tennessee, and David Garcia, Jr. said he would inquire with people David Garcia, Jr. knew in Tennessee.

Overt Act Seven

On May 10, 2012, Gustavo Alcantar-Avitia told Leo LNU that, to pay the courier, the sale price of the marijuana would be \$630 per pound, and he asked Leo LNU whether Leo LNU had a location to unpack the marijuana in Tennessee.

Overt Act Eight

Between May 10, 2012, and May 22, 2012, Miguel Reyes's two load drivers, escorted by Leo LNU, transported marijuana from Albuquerque, New Mexico, to Tennessee.

Overt Act Nine

On May 11, 2012, Gustavo Alcantar-Avitia advised David Garcia, Jr. that "Guel" was causing problems for Gustavo Alcantar-Avitia in Mexico on account of the fact that Gustavo Alcantar-Avitia now worked for David Garcia, Jr.'s boss.

Overt Act Ten

On May 11, 2012, David Garcia, Jr. advised Gustavo Alcantar-Avitia that "they" were going to pick "Guel" up right now, blindfold him, and possibly kill him, and that Gustavo Alcantar-Avitia probably needed to speak to David Garcia, Jr.'s boss.

Overt Act Eleven

On May 11, 2012, David Garcia, Jr. told Gustavo Alcantar-Avitia that he had learned that "Guel" was a big talker and that David Garcia, Jr. had called off the murder plot.

Overt Act Twelve

On May 11, 2012, David Garcia, Jr. told a drug trafficking associate about an opportunity to transport two drug loads through Gustavo Alcantar-Avitia.

Overt Act Thirteen

On May 22, 2012, Gustavo Alcantar-Avitia gave Leo LNU detailed instructions on how to dismantle the load vehicle and extract the marijuana from the secret compartment.

Overt Act Fourteen

On May 23, 2012, Gustavo Alcantar-Avitia directed Leo LNU to deposit \$92,500 in multiple bank accounts.

Overt Act Fifteen

On May 24, 2012, Gustavo Alcantar-Avitia confirmed that he received the money that Leo LNU deposited.

Overt Act Sixteen

On May 31, 2012, an unknown female courier delivered about \$35,000 in bulk cash to Gustavo Alcantar-Avitia in Albuquerque, New Mexico, for the load of marijuana taken to Tennessee.

Overt Act Seventeen

On June 3, 2012, Gustavo Alcantar-Avitia told an unknown male that he had access to "a shit-load of marijuana," and also had access to cocaine.

Overt Act Eighteen

Between June 6, and June 11, 2012, Gustavo Alcantar-Avitia oversaw a \$105,000 shipment of drug proceeds to Ivan LNU.

Overt Act Nineteen

On June 8, 2012, Gustavo Alcantar-Avitia told Lazaro Mendoza-Dominguez that they were going to start trafficking cocaine and asked Lazaro Mendoza-Dominguez whether it was normal for cocaine to arrive with an extra ounce per square, and Lazaro Mendoza-Dominguez confirmed that it was normal.

Overt Act Twenty

On June 9, 2012, Lazaro Mendoza-Dominguez told Gustavo Alcantar-Avitia he had been trying to reach Gustavo Alcantar-Avitia, and Gustavo Alcantar-Avitia told Lazaro Mendoza-Dominguez that he had been counting "papers" (bulk cash) so that Gustavo Alcantar-Avitia could "turn them in."

Overt Act Twenty-One

On June 21, 2012, Lazaro Mendoza-Dominguez told Gustavo Alcantar-Avitia that he had cash for five kilograms of cocaine and asked if Gustavo Alcantar-Avitia had heard from David Garcia, Jr. about whether David Garcia, Jr. had access to that quantity of cocaine.

Overt Act Twenty-Two

On June 21, 2012, Gustavo Alcantar-Avitia tried to sell 100 pounds of marijuana to Lazaro Mendoza-Dominguez, and later in the day Gustavo Alcantar-Avitia tried to sell 70 pounds of marijuana in his possession through Eber LNU.

Overt Act Twenty-Three

On June 26, 2012, Gustavo Alcantar-Avitia and Lazaro Mendoza-Dominguez bemoaned the tribulations of marijuana trafficking, and agreed that cocaine trafficking was superior because marijuana trafficking typically involves drugs being fronted and therefore the seller has to track down payment after the fact.

Overt Act Twenty-Four

On July 3, 2012, Ivan LNU imposed a firm deadline that Gustavo Alcantar-Avitia had to meet, and told Gustavo Alcantar-Avitia that if he did not meet the deadline that Ivan LNU would "start picking up" Gustavo Alcantar-Avitia's people.

Overt Act Twenty-Five

On July 3, 2012, Ivan LNU told Gustavo Alcantar-Avitia that Gustavo Alcantar-Avitia needed to produce \$20,000 by that afternoon, and the rest later, and Gustavo Alcantar-Avitia told Ivan LNU that the problem was that the driver would not answer the telephone, and asked Ivan LNU to threaten the driver's family living in Mexico.

Overt Act Twenty-Six

On July 3, 2012, Gustavo Alcantar-Avitia advised Lazaro Mendoza-Dominguez about his troubles with Ivan LNU, and told Lazaro Mendoza-Dominguez that the problem was that the driver would not advise Gustavo Alcantar-Avitia of his whereabouts until his arrival.

Overt Act Twenty-Seven

On July 3, 2012, Gustavo Alcantar-Avitia told Alberto Loya-Nevarez that the unknown persons who were supposed to be delivering Gustavo Alcantar-Avitia's drug proceeds were not on their way as they had said they were, and that was why Gustavo Alcantar-Avitia had not yet received the money that he owed Ivan LNU.

Overt Act Twenty-Eight

On July 7, 2012, Miguel Reyes and Gustavo Alcantar-Avitia discussed that they were not going to pick up Victor Lucero's sister in Mexico because she was innocent, but bemoaned the fact that people did not face consequences since they felt nothing could be done to them while they were in the United States.

Overt Act Twenty-Nine

On July 10, 2012, Gustavo Alcantar-Avitia offered David Garcia, Jr. 200 pounds of marijuana in Denver, Colorado, at a price of \$550 per pound, but David Garcia, Jr. declined, saying the price was too high and "they" were going to get some in soon.

Overt Act Thirty

On July 13, 2012, Victor Lucero left Minneapolis, Minnesota, driving his silver Dodge Magnum and an unknown amount of drug proceeds, which he delivered to Albuquerque, New Mexico, on July 14, 2012.

Overt Act Thirty-One

On July 14, 2012, Miguel Reyes met Victor Lucero in Albuquerque, New Mexico, and picked up an unknown quantity of drug proceeds that Victor Lucero had transported from Minnesota.

Overt Act Thirty-Two

On July 18, 2012, Alberto Loya-Nevarez drove 187 pounds of marijuana from El Paso, Texas, to Albuquerque, New Mexico.

Overt Act Thirty-Three

On July 18, 2012, Gustavo Alcantar-Avitia and Alberto Loya-Nevarez dismantled the load vehicle and extracted 187 pounds of marijuana in Albuquerque, New Mexico.

Overt Act Thirty-Four

On July 19, 2012, Alberto Loya-Nevarez asked an unknown man if the man could do Alberto Loya-Nevarez and Gustavo Alcantar-Avitia a favor and store something valuable at the man's house because they had buyers for the marijuana coming over.

Overt Act Thirty-Five

On July 19, 2012, Lazaro Mendoza-Dominguez picked up 100 pounds of marijuana from Gustavo Alcantar-Avitia's house in Albuquerque, New Mexico.

Overt Act Thirty-Six

On July 19, 2012, Gustavo Alcantar-Avitia sold the remaining 87 pounds of marijuana to an unknown man.

Overt Act Thirty-Seven

On July 19, 2012, after picking up 100 pounds of marijuana at Gustavo Alcantar-Avitia's house in Albuquerque, Lazaro Mendoza-Dominguez detected law enforcement surveillance,

performed counter surveillance, and eventually abandoned his cellular telephone at Cochiti Lake, on Cochiti Pueblo.

Overt Act Thirty-Eight

On July 20, 2012, Lazaro Mendoza-Dominguez told Gustavo Alcantar-Avitia he had been followed by four vehicles after leaving Gustavo Alcantar-Avitia's house, and told Gustavo Alcantar-Avitia to be careful.

Overt Act Thirty-Nine

On July 20, 2012, Lazaro Mendoza-Dominguez told Gustavo Alcantar-Avitia that the money Lazaro Mendoza-Dominguez owed Gustavo Alcantar-Avitia for the 100 pounds of marijuana would be ready the next day.

Overt Act Forty

On July 25, 2012, Alberto Loya-Nevarez told Lazaro Mendoza-Dominguez that Alberto Loya-Nevarez wanted to leave and that he was at the outlet mall in Santa Fe, New Mexico, and Lazaro Mendoza-Dominguez said he would send the guy over to Alberto Loya-Nevarez's location.

Overt Act Forty-One

On July 25, 2012, police pulled over Alberto Loya-Nevarez's vehicle traveling south in Las Cruces, New Mexico, and discovered \$53,980 in United States currency wrapped in duct tape, and secreted in natural voids in his vehicle.

Overt Act Forty-Two

On July 25, 2012, Alberto Loya-Nevarez told police that he was taking the money in his vehicle to Mexico, and that he had been in Albuquerque, New Mexico, visiting a friend, but also told authorities he was scared he might be killed and asked for a picture to be taken of him with the money in front of a marked police car and his load vehicle.

Overt Act Forty-Three

On July 25, 2012, after Alberto Loya-Nevarez had been released, Gustavo Alcantar-Avitia was advised by the friend who Alberto Loya-Nevarez told police that he had been visiting in Albuquerque, New Mexico, that Alberto Loya-Nevarez had been caught in Las Cruces, New Mexico.

Overt Act Forty-Four

On August 9, 2012, police pulled over Victor Lucero's vehicle as Victor Lucero was traveling westbound towards Denver, Colorado, on Interstate 76 in Colorado, and discovered \$55,000 in United States currency in a bag on the front passenger floorboard.

Overt Act Forty-Five

On August 10, 2012, Gustavo Alcantar-Avitia told David Garcia, Jr. that Victor Lucero should be released from jail soon and that Gustavo Alcantar-Avitia did not know whether police had seized the money.

Overt Act Forty-Six

On August 16, 2012, Ivan LNU and David Garcia, Jr. discussed and calculated the amount of drug proceeds that Gustavo Alcantar-Avitia owed Ivan LNU, and agreed that the correct figure was \$805,000.

Overt Act Forty-Seven

Between August 22, and August 24, 2012, after Victor Lucero stopped answering his telephone, Gustavo Alcantar-Avitia and Miguel Reyes traveled to Minnesota to meet with their drug debtor in the Minneapolis area, and to obtain the remaining drug proceeds that the debtor owed them.

Overt Act Forty-Eight

On August 24, 2012, after Gustavo Alcantar-Avitia and Miguel Reyes meet with the drug debtor in the Minneapolis area, Gustavo Alcantar-Avitia detected law enforcement surveillance and fled to Wisconsin on a bus.

Overt Act Forty-Nine

On August 24, 2012, David Garcia, Jr. advised Gustavo Alcantar-Avitia and Miguel Reyes to go their own ways, and Gustavo Alcantar-Avitia said he was going to cease using his telephone.

Overt Act Fifty

On September 11, 2012, Gustavo Alcantar-Avitia asked Miguel Reyes if there was any news, and Miguel Reyes said that the Minneapolis debtor would only text message because he felt that things were too "hot," and that Victor Lucero, claimed that there was no way to have the money sent because the debtor used a different telephone number every time.

Overt Act Fifty-One

On September 11, 2012, Gustavo Alcantar-Avitia told Miguel Reyes they had to do something to get the money from the Minneapolis debtor, but Miguel Reyes said they had to wait

on Victor Lucero and Gustavo Alcantar-Avitia agreed, saying things would never “cool down” and that Gustavo Alcantar-Avitia and Miguel Reyes would always be waiting.

In violation of 21 U.S.C. § 846.

Count 2

On or about May 8, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendant, **GUSTAVO ALCANTAR-AVITIA**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 3

On or about May 8, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **MIGUEL REYES**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 4

On or about May 9, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **MIGUEL REYES**, unlawfully,

knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 5

On or about May 10, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendant, **GUSTAVO ALCANTAR-AVITIA**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 6

On or about May 10, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **MIGUEL REYES**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 7

On or about May 8, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **DAVID GARCIA, JR.**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 8

On or about May 22, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendant, **GUSTAVO ALCANTAR-AVITIA**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 9

On or about June 6, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendant, **GUSTAVO ALCANTAR-AVITIA**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled

substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 10

On or about June 8, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **LAZARO MENDOZA-DOMINGUEZ, a/k/a Marcos R. Hurtado**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 11

On or about June 11, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendant, **GUSTAVO ALCANTAR-AVITIA**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 12

On or about June 21, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **LAZARO MENDOZA-**

DOMINGUEZ, a/k/a Marcos R. Hurtado, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 13

On or about July 3, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendant, **GUSTAVO ALCANTAR-AVITIA**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 14

On or about July 3, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **DAVID GARCIA, JR.**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 15

On or about July 10, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **DAVID GARCIA, JR.**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 16

On or about July 11, 2012, in Doña Ana County, in the District of New Mexico, the defendants, **GUSTAVO ALCANTAR-AVITIA**, and **MIGUEL REYES, a/k/a Miguel Reyes Carrera**, did knowingly conduct and attempt to conduct a financial transaction affecting interstate or foreign commerce, specifically, the withdrawal of \$5,000 in currency which was the proceeds of specified unlawful activity, specifically, conspiracy to possess with intent to distribute marijuana and cocaine, contrary to 21 U.S.C. § 846, while attempting to conceal or disguise the nature, location, source, or control of the specified unlawful activity.

In violation of 18 U.S.C. § 1956(a)(1)(B)(i), and 18 U.S.C. § 2.

Count 17

On or about July 17, 2012, in Doña Ana County, in the District of New Mexico, the defendants, **GUSTAVO ALCANTAR-AVITIA**, and **MIGUEL REYES, a/k/a Miguel Reyes Carrera**, did knowingly conduct and attempt to conduct a financial transaction affecting interstate or foreign commerce, specifically, the withdrawal of \$4,900 in currency which was the proceeds of

specified unlawful activity, specifically, conspiracy to possess with intent to distribute marijuana and cocaine, contrary to 21 U.S.C. § 846, while attempting to conceal or disguise the nature, location, source, or control of the specified unlawful activity.

In violation of 18 U.S.C. § 1956(a)(1)(B)(i), and 18 U.S.C. § 2.

Count 18

On or about July 14, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **ALBERTO LOYA-NEVAREZ, a/k/a "Betito," a/k/a "Beto,"** unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substance, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 19

On or about July 16, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **LAZARO MENDOZA-DOMINGUEZ, a/k/a Marcos R. Hurtado,** unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 20

On or about July 18, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **LAZARO MENDOZA-DOMINGUEZ, a/k/a Marcos R. Hurtado**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 21

On or about July 18, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **ALBERTO LOYA-NEVAREZ, a/k/a "Betito," a/k/a "Beto,"** unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 22

On or about July 19, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendant, **ALBERTO LOYA-NEVAREZ, a/k/a "Betito," a/k/a "Beto,"** unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent

to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 23

On or about July 19, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **LAZARO MENDOZA-DOMINGUEZ, a/k/a Marcos R. Hurtado**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 24

On or about July 20, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **LAZARO MENDOZA-DOMINGUEZ, a/k/a Marcos R. Hurtado**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 25

On or about July 25, 2012, in Doña Ana County, in the District of New Mexico, the defendants, **GUSTAVO ALCANTAR-AVITIA** and **ALBERTO LOYA-NEVAREZ, a/k/a**

“Betito,” a/k/a “Beto,” with the intent to evade a currency reporting requirement under Title 31, United States Code, Section 5316, knowingly concealed more than \$10,000 in currency and other monetary instruments in any conveyance, article of luggage, merchandise and other container, and transported and transferred and attempted to transport and transfer such currency and monetary instruments from a place within the United States to a place outside of the United States.

In violation of 31 U.S.C. § 5332(a)(1) and (b); and 18 U.S.C. § 2.

Count 26

On or about August 16, 2012, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendant, **GUSTAVO ALCANTAR-AVITIA**, unlawfully, knowingly and intentionally did use a communication facility, specifically: a telephone, to further the commission of a drug trafficking crime, specifically: conspiracy to possess with intent to distribute controlled substances, a mixture and substance containing a detectable amount of marijuana and cocaine, contrary to 21 U.S.C. § 846.

In violation of 21 U.S.C. § 843(b), and 18 U.S.C. § 2.

Count 27

On or about July 19, 2012, in Sandoval County, in the District of New Mexico, the defendant, **LAZARO MENDOZA-DOMINGUEZ, a/k/a Marcos R. Hurtado**, an alien, having knowingly reentered the United States, was found in Sandoval County, in the District of New Mexico, contrary to law in that on or about February 16, 2012, the defendant had been deported, excluded and removed and departed the United States while an Order of Exclusion, Deportation and

Removal was outstanding, and the defendant had not obtained the express consent of the Secretary for Homeland Security to reapply for admission into the United States.

In violation of 8 U.S.C. §§ 1326(a) and (b).

FORFEITURE ALLEGATION

Counts 1 through 26 of this Indictment are incorporated as part of this section of the indictment as if fully re-alleged herein for the purpose of alleging forfeiture to the United States pursuant to 21 U.S.C. § 853 and 18 U.S.C. § 982(a)(1).

Upon conviction of any offense in violation of 21 U.S.C. § 846, the defendants, **GUSTAVO ALCANTAR-AVITIA, MIGUEL REYES, a/k/a Miguel Reyes Carrera, VICTOR LUCERO, a/k/a Daniel Edward Lucero, LAZARO MENDOZA-DOMINGUEZ, a/k/a Marcos R. Hurtado, ALBERTO LOYA-NEVAREZ, a/k/a "Betito," a/k/a "Beto," and DAVID GARCIA, JR.,** and shall forfeit to the United States pursuant to 21 U.S.C. § 853 any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of each offense for which the defendants are convicted, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the said offenses.

Upon conviction of any offense in violation of 18 U.S.C. § 1956, the defendants, **GUSTAVO ALCANTAR-AVITIA, and MIGUEL REYES, a/k/a Miguel Reyes Carrera,** shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(1) any property, real or personal, involved in such offense, or any property traceable to such property.

The property to be forfeited to the United States includes but is not limited to the following:

MONEY JUDGMENT

A sum of money equal to at least \$805,000 in United States currency, including any interest accruing to the date of the judgment, representing the amount of money derived from or involved in the offenses, or traceable to property involved in the offenses for which the defendants are jointly and severally liable.

SUBSTITUTE ASSETS

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- 1) cannot be located upon the exercise of due diligence;
- 2) has been transferred or sold to, or deposited with, a third party;
- 3) has been placed beyond the jurisdiction of the Court;
- 4) has been substantially diminished in value; or
- 5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), 18 U.S.C. § 982(b) and 28 U.S.C. § 2461(c), to seek forfeiture of any other property of the Defendants up to the value of the forfeitable property described above.

A TRUE BILL:

15/
FOREPERSON OF THE GRAND JURY

Andrew W. Haskin
Assistant United States Attorney

RCW 09/20/12 8:20am